

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DANNY RAY CRAIG,

Defendant.

No. 11-CR-4035-DEO

ORDER ACCEPTING REPORT
AND RECOMMENDATION
CONCERNING GUILTY PLEA
AND SCHEDULING SENTENCING
HEARING

I. INTRODUCTION AND BACKGROUND

On March 23, 2011, a four count Indictment (Docket No. 3) was returned in the above-referenced case.

Count 1 of the Indictment charges that from about 2010 through January 2011, in the Northern District of Iowa, and elsewhere, defendant Danny Ray Craig, having previously been convicted of two felony drug convictions, namely possession with intent to distribute a controlled substance, on or about June 29, 1998, and November 21, 2000, in the Iowa District Court in and for Polk County, case numbers FECR124899 and FECR149634, and a co-defendant, did knowingly and unlawfully combine, conspire, confederate, and agree with each other and other persons, known and unknown to the Grand Jury, to: distribute 50 grams or more of a mixture or substance

containing a detectable amount of methamphetamine, which contained 5 grams or more of actual (pure) methamphetamine, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B).

This was in violation of Title 21, United States Code, Sections 846 and 851.

Count 2 of the Indictment charges that on or about December 16, 2010, in the Northern District of Iowa, the defendants, Danny Ray Craig, having previously been convicted of two felony drug convictions, namely possession with intent to distribute a controlled substance, on or about June 29, 1998, and November 21, 2000, in the Iowa District Court in and for Polk County, case numbers FECR124899 and FECR149634, and a co-defendant, did knowingly and intentionally distribute and aid and abet each other in the distribution of 10.55 grams of a mixture or substance containing a detectable amount of methamphetamine, which contained 10.33 grams of actual (pure) methamphetamine, a Schedule II controlled substance.

This was in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B), and 851 and Title 18, United States Code, Section 2.

Count 3 of the Indictment charges that on or about December 18, 2010, in the Northern District of Iowa, the defendants, Danny Ray Craig, having previously been convicted of two felony drug convictions, namely possession with intent to distribute a controlled substance, on or about June 29, 1998, and November 21, 2000, in the Iowa District Court in and for Polk County, case numbers FECR124899 and FECR149634, and a co-defendant, did knowingly and intentionally distribute and aid and abet each other in the distribution of 6.71 grams of a mixture or substance containing a detectable amount of methamphetamine, which contained 6.64 grams of actual (pure) methamphetamine, a Schedule II controlled substance.

This was in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B), and 851 and Title 18, United States Code, Section 2.

Count 4 of the Indictment charges that on or about January 5, 2011, in the Northern District of Iowa, the defendants, Danny Ray Craig, having previously been convicted of two felony drug convictions, namely possession with intent to distribute a controlled substance, on or about June 29, 1998, and November 21, 2000, in the Iowa District Court in and

for Polk County, case numbers FECR124899 and FECR149634, and a co-defendant, did knowingly and intentionally distribute and aid and abet each other in the distribution of 13.55 grams of a mixture or substance containing a detectable amount of methamphetamine, which contained 13.41 grams of actual (pure) methamphetamine, a Schedule II controlled substance.

This was in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B), and 851 and Title 18, United States Code, Section 2.

On September 9, 2011, defendant Danny Ray Craig appeared before Chief United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Counts 1 and 2 of the Indictment.

The Report and Recommendation (Docket No. 56, 09/15/2011), states that the Defendant is pleading guilty pursuant to a plea agreement (Docket No. 52), and Chief United States Magistrate Judge Paul A. Zoss recommends that defendant Danny Ray Craig's guilty plea be accepted. Waivers of objections to Judge Zoss's Report and Recommendation were filed by each party (Docket Nos. 53 and 55). The Court, therefore, undertakes the necessary review to accept defendant Danny Ray Craig's plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

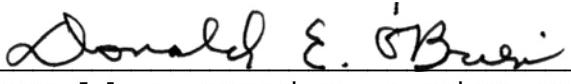
FED. R. CIV. P. 72(b).

As mentioned, waivers of objections to the Report and Recommendation have been filed, and it appears to the Court upon review of Chief Magistrate Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

IT IS THEREFORE HEREBY ORDERED that this Court accepts Chief Magistrate Judge Zoss's Report and Recommendation (Docket No. 56), and accepts defendant Danny Ray Craig's plea of guilty in this case to Counts 1 and 2 of the Indictment (Docket No. 3).

IT IS FURTHER HEREBY ORDERED that the sentencing hearing for Defendant Danny Ray Craig will take place before the undersigned on Friday, December 30, 2011, at 2:00 p.m.

IT IS SO ORDERED this 15th day of December, 2011.



Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa